



Southeast Fishery Bulletin

National Marine Fisheries Service, Southeast Regional Office, 9721 Executive Center Drive N., St. Petersburg, FL 33702

FOR INFORMATION CONTACT:

Phil Steele or Phil.Steele@noaa.gov
(727) 570-5305; FAX (727) 570-5583
<http://caldera.sero.nmfs.gov>

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PROPOSED RULE TO ESTABLISH GULF OF MEXICO RED SNAPPER INDIVIDUAL FISHING QUOTA (IFQ) REFERENDUM PROCEDURES AND VOTE WEIGHTING FORMULA

The National Marine Fisheries Service (NOAA Fisheries) has published a proposed rule to establish referendum procedures and a vote weighting formula for the Gulf of Mexico (Gulf) Red Snapper Individual Fishing Quota (IFQ) Program in the Federal Register on October 27, 2003, for public review and comment. The proposed rule provides potential participants with information about the schedule, procedures, and eligibility requirements for participating in referendums to determine whether or not an IFQ program for the Gulf commercial red snapper fishery should be prepared, and if so, whether it should subsequently be submitted to the Secretary of Commerce (Secretary) for review. The intended effect of this proposed rule is to implement the referendums consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Referendum Processes

Establishment of a red snapper IFQ program is a two-tiered process requiring that separate referendums be conducted by NOAA Fisheries. In the first referendum, fishermen qualified to vote will be asked to decide whether or not an IFQ program should be established. NOAA Fisheries will present the results of the first referendum to the Gulf of Mexico Fishery Management Council (Council), and, at that time, the Council may elect to proceed with development of an IFQ plan amendment (assuming a majority vote "yes" by fishermen for the first referendum). After preparation of an IFQ plan amendment, the Council may vote to submit the plan amendment to the Secretary, pending approval by those voting in the second referendum. In the second referendum, fishermen qualified to vote will be asked to decide whether the alternatives proposed in the IFQ plan amendment are acceptable and may be submitted to the Secretary for review. It should be noted, however, that even if both referendums pass, the Secretary is not mandated to enact an IFQ program.

Who Would Be Eligible to Vote in the Referendums

Section 407(c)(2) of the Magnuson-Stevens Act establishes criteria regarding eligibility of persons to vote in the referendums. After careful consideration of those criteria, NOAA Fisheries has determined that the following persons

would be eligible to vote in the referendums.

For the Initial Referendum

(A) A person according to NOAA Fisheries' permit records who has continuously held their Gulf of Mexico red snapper endorsement/Class 1 license from September 1, 1996, through the date of publication in the Federal Register of the final rule implementing these referendum procedures;

(B) in the case of a Class 1 license that has been transferred through sale since September 1, 1996, the person that according to NOAA Fisheries' permit records holds such Class 1 license as of the date of publication in the Federal Register of the final rule implementing these referendum procedures;

(C) in the case of a Class 1 license that has been transferred through lease since September 1, 1996, both the final lessor and lessee as of the date of publication in the Federal Register of the final rule implementing these referendum procedures, as determined by NOAA Fisheries' permit records; and

(D) a vessel captain who harvested red snapper under a red snapper endorsement in each red snapper commercial fishing season between January 1, 1993, and September 1, 1996.

Eligibility criteria for the second referendum are identical to that established for the first referendum and will be announced in a future Southeast Fisheries Bulletin if the first referendum passes by a majority "yes" vote by eligible voters and the Council then elects to proceed with development of an IFQ plan amendment.

How Would Votes Be Weighted

NOAA Fisheries will obtain applicable red snapper landings data from the Southeast Fisheries Science Center reef fish logbook database. Information from the NOAA Fisheries' Southeast Regional Office permit database will be used to assign total applicable landings to each eligible voter (red snapper endorsement/Class 1 license holder, lessee/lessor, or vessel captain. To address confidentiality concerns, NOAA Fisheries would establish a series of categories (ranges) of red snapper landings based on 5,000 pound intervals (e.g., 0-5,000 pounds; 5,001-10,000 pounds) etc.,

concluding with the interval that includes the highest documented landings. Each eligible voter's total landings during the period January 1, 1993, and September 1, 1996, would be attributed to the appropriate category. The overall landings attributed to each category would be determined. That average number of pounds would be the vote weighting factor, i.e., one vote for each such pound, for each eligible voter whose landings fall within that category. For example, if the overall average number of pounds attributed to the 5,001-10,000 pound category is 8,150 pounds, each eligible voter within that category will receive 8,150 votes.

How Would the Vote Be Conducted

On or about November 15, 2003, NOAA Fisheries will mail each eligible voter a ballot that would specify the number of votes (weighting) that the voter is assigned. NOAA Fisheries will mail the ballots and associated explanatory information, via certified mail return receipt requested, to the address of record indicated in NOAA Fisheries' permit database for red snapper endorsement/Class 1 license holders and, for vessel captains, to the address provided by the captains during the prior information solicitation that ended August 18, 2003. All votes assigned to the eligible voters must be cast for the same decision, i.e., either all to approve or all to disapprove the applicable referendum question. The ballot must be signed by the eligible voters. Ballots must be mailed to Phil Steele, Southeast Regional Office, NMFS, 9721 Executive Center Drive N, St. Petersburg, FL, 33702. Ballots for the initial referendum must be received at that address by 4:30 p.m. eastern time, December 15, 2003; ballots received after that deadline will not be considered in determining the outcome of the initial referendum. Although not required, voters may want to consider submitting their ballots by registered mail.

How Would the Outcome of the Referendum Be Determined

Vote counting will be conducted by NOAA Fisheries. Approval or disapproval will be determined by a majority of the votes cast. NOAA Fisheries will prepare a fishery bulletin announcing the results of each referendum that is conducted and will distribute the bulletin to all Gulf reef

fish permittees, including dealers, and other interested parties. The results will also be posted on NOAA Fisheries Southeast Regional Office's website at <http://caldera.sero.nmfs.gov>.

What Would Happen After the Initial Referendum

NOAA Fisheries would present the results of the initial referendum at the January 13-16, 2004, Council meeting in Austin, Texas. If the initial referendum fails, the Council cannot proceed with preparation of a plan amendment and regulations to implement an IFQ program. If the initial referendum is approved, the Council would be authorized, if it so decides, to proceed with the development of a plan amendment and regulations to implement an IFQ program for the commercial red snapper fishery in the Gulf of Mexico. The proposed IFQ program would be developed through the normal Council and rulemaking process that would involve extensive opportunities for industry and public review and input at various Council meetings, public hearings, and during public comment periods on the plan amendment and regulations. The plan amendment and regulations would only be submitted to the Secretary for review and approval or disapproval if in a second referendum approval of the submission was passed by a majority of the votes cast by the eligible voters as described in this proposed rule.

Written comments on the proposed rule must be sent to Phil Steele, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and must be received no later than 4:30 p.m., eastern time, on November 10, 2003. Comments also may be sent via fax to Phil Steele at 727-570-5583. Comments will not be accepted if submitted via e-mail or Internet. Copies of supporting documentation for this proposed rule, which includes a Regulatory Impact Review and a Regulatory Flexibility Act Analysis are available from NOAA Fisheries' Southeast Regional Office at the address above.

NOAA Fisheries is an agency of the Commerce Department's National Oceanic and Atmospheric Administration.